

Arizona Department of Real Estate (ADRE)
Real Estate Advisory Board
Minutes
May 18, 2016

The Real Estate Advisory Board met on Wednesday, May 18, 2016 at the Arizona Department of Real Estate (ADRE), 2910 N 44th Street, Commissioner's Conference Room, Phoenix, Arizona.

I. Call to Order

Chair Clifton called the meeting to order at 10:00am

Members present:

Kimberly Clifton, Chair
Karen Bohler
Carla Bowen
Charlie Bowles
Frank Dickens
Bill Gray
Nedra Halley
Bruce Jacobs

Absent

Nicole LaSlavic
Scott Peterson

ADRE Representatives present:

Judy Lowe, Commissioner
Louis Dettorre, Deputy Commissioner
Danielle Hazeltine, Assistant Commissioner Compliance
Carla Randolph, CIO, Assistant Commissioner Licensing Services
Abby Hansen, Customer Service Representative

Public present:

Scott Drucker, AAR

II. Introductions & Welcome

None

III. Approval of February 10, 2016 Meeting Minutes

Chair Clifton asked for a Motion to approve the February 10, 2016 minutes. Upon a motion by Member Halley, seconded by Member Bohler, the Minutes of the February 10, 2016 meeting were unanimously approved

IV. Commissioner's Report – Judy Lowe, Commissioner

Commissioner Lowe provided an update on personnel changes within the Department; Sarah Dobbins, while still Chief of Staff, has taken on the responsibility of Shared Services Human Resources for ADRE, The Department of Financial Institutions (DFI) and The Department of Insurance (DOI). Louis Dettorre was promoted to Deputy Commissioner (DC) and Carla Randolph was promoted to ADRE Continuous Improvement Officer (CIO) on the Governors Lean project.

The Commissioner spoke about the weekly meeting that agency directors are attending in response to the Governor's mission to have all agencies run at the speed of business. John Bernard is leading agency directors to develop the management style for Arizona, including but not limited to the mission and core values. Identifying problems and cost needs to achieve the Governor's five top priorities; Ensuring World Class Education, Driving Economic Opportunity, Championing the Health of People and Resources, Protecting Life and Prosperity and Accelerating Agency Performance. ADRE is on a team focused on Economic Opportunity along with the Arizona Commerce Authority, Department of Land, Department of Housing and Registrar of Contractors, among others. They are looking at agencies as drivers of economic growth and creating better and more efficient methods of operating. The group is led by Sandra Watson of the Commerce Authority.

Member Bowen asked if any legislators were involved in this. The Commissioner stated that they were not directly involved.

The Commissioner discussed her recent Association of Real Estate License Law Officials (ARELLO) conference. Key topics included;

- The increase in property management companies and entities buying income property via investors crowdfunding (primarily residential not multi-housing). With many of these entities hiring local property managers and many don't realize Arizona law requires them to hold an Arizona Real Estate license. There are also name approval issues when they find that their corporate name is already in use by an Arizona real estate company.
- Also discussed was the issue of teams diminishing the designated broker's role. Designated brokers are allowing the team leader to be responsible for the role of supervisor and decision maker.
- New Business models were discussed.
- Coming Soon signs were discussed; inventory across the country is at an all-time low. It must be understood that if a buyer's agent calls with an offer the listing agent must present all offers.

- Fees for service – licensee has contracted to put the listing on Multiple Listing Service (MLS), as long as licensed, no issue with ADRE. ADRE will monitor fiduciary responsibility.
- Online auctions that represent owner of property and allow online bidding of buyers were discussed.
- Reciprocity was also discussed. ARELLO will research this issue. With states putting in place requirements for out-of-state licenses to be honored. The Commissioner noted that Arizona has a co-broker agreement in place that has worked well for the state.

Member Bohler asked if this would require legislative approval. The Commissioner stated yes. Member Gray stated the education waiver already exists in R4-28-401 and noted in the past ADRE spent enormous time verifying. Member Dickens stated previous advisory boards had discussed waivers and found the education is specific to Arizona and should be required.

Member Dickens asked if out-of-state experience may be used for a Broker's license. Assistant Commissioner Randolph stated yes.

V. Deputy/Assistant Commissioner Updates

Deputy Commissioner Dettorre discussed department accomplishments;

- Remodeling the file room by installing 2 offices and cubicles allowing ADRE to downsize space rented and create a more cohesive environment for the Enforcement & Compliance, Auditing and Investigations Divisions.
- Going Digital- ADRE will migrate data to the State cloud by June 30. No changes in services to the Public and Industry. There may be a very short website outage but ADRE is working to minimize it. The Commissioner stated it was a financial commitment; both upfront and continuous. It will allow more security for the data and cost savings around the software we used on ADRE's own servers and mentioned ADRE's Information Technology (IT) Manager sees it as an opportunity to free up time used as maintenance to be used for development.

Member Bowen stated it's a great transition as IT costs continue to require additional and more frequent spending.

Deputy Commissioner Dettorre gave a brief budget update. Effective July 1, 2016 ADRE will be appropriated just over \$3M, up from around \$2.98M from the last five fiscal years. The increase is to absorb a piece of the Department of Fire, Building and Life Safety (DFBLS) that is being consolidated with ADRE assuming the Home Owner Association (HOA) dispute process. The Department of Housing will take the Office of Manufactured Housing, and the Department of Forestry will take the State Fire Marshall.

In regards to the HOA complaint process, ADRE will accept the application of complaint and will ensure that all required documents are received. ADRE will then package and send to the Office of Administrative Hearing (OAH).

Member Dickens asked how many complaints were received. Deputy Commissioner Dettorre stated he believed there were 25 petitions received by DFBLS last year and 17 were referred to OAH.

Scott Drucker asked if the \$750 complaint fee would be reduced and if so to what. Commissioner Lowe stated that has not been determined.

Member Bohler asked if ADRE determines what is sent to OAH. Commissioner Lowe stated we have some discretion, Deputy Commissioner Dettorre stated the matter will go to OAH to make the final determination.

Legislative Affairs:

The Deputy Commissioner gave a verbal overview of legislative bills from the 2016 Legislative Regular Session:

- SB1193 - Modifies ADRE's requirement for licensed Brokers to maintain hard copy license certificates for Salespersons and Associate Brokers. The law clarifies that licensed Brokers can use the Online Public Database for these records. This bill is on the Governor's desk with an anticipated signature by May 19th.
- HB2514 – Restricted vehicle use; DUI; exemption. Signed in March.
- SB1421 – Commissions; compensation; expenses- would require agencies to report compensation of Boards and Commissions.

Member Gray asked about SB1350 – AirBNB taxing issue and can an HOA enforce short term rental needs. Scott Drucker commented the bill was for cities, towns and counties most HOA's do not allow short term rentals.

- DC Dettorre stated several bills were brought forward related to water. Two of these bills were vetoed by the Governor last week.

Member Bowen asked how that would affect Public Reports. The Commissioner stated they would not because the bills were vetoed.

DC Dettorre gave a Recovery Fund update that included the historical payout and balance for the last five fiscal years.

a. Assistant Commissioner (AC) Licensing Services – Carla Randolph

AC Randolph provided a verbal update for the Licensing, Education and Development Services Divisions.

June 10th is the next Arizona Real Estate Educator's Associate (AZREEA) luncheon meeting and ADRE will attend and participate.

With regard to Development Services, AC Randolph stated that the next Lunch and Learn event is June 1st.

AC Randolph provided an overview of the ADRE scorecard that is sent to the Governor's Office monthly and provided a copy to date. AC Randolph shared a small improvement idea on ADRE's online system access that will significantly reduce telephone calls to ADRE.

b. Assistant Commissioner (AC) Compliance – Danielle Hazeltine

AC Hazeltine provided a verbal update for the Compliance and Enforcement, Auditing and Investigation Divisions.

AC Hazeltine provided the following “top four” violations found by the Auditing and Investigations Staff for residential sales and property management:

Residential Sales Brokers

- Failure to perform documented broker review of transaction documents within ten (10) business days.
- Failure to maintain required transaction documents in the brokers file.
- Failure to make account for and/or timely deposit earnest money in a broker trust account or with escrow.
- Failure to make appropriate disclosures regarding owner/agent and/or being a member/manager of an entity buying or selling a property.

Property Management Brokers

- Trust account deficiencies and overages
- Failure to perform and/or maintain monthly trust account reconciliations in which the adjusted trust account bank balance is reconciled with the owner/tenant liabilities.
- Trust accounts that are not clearly designated as such.
- Property Management Agreements that fail to contain all required clauses, most often disposition of interest and non-assignment clause.

VI. Advisory Board Member Facilitator Reports

Member Gray commented that he was asked if a property manager has one of their employees speak to a contractor for repairs should they be licensed. Member Gray directed them to ADRE.

Member Bowen had two items;

- 1) She received a concern that a subdivision was being illegally formed, LuxTiny. The county said the developer was exempt because they were leasing properties. Member Bowen called AC Randolph and found they would need to obtain a Subdivision Public Report. AC Randolph called LuxTiny and found there were also units for sale so they would require a Subdivision Public Report.

- 2) Regarding R4-28-502(L) Acre in advertising. There are concerns that the public is not aware an acre is 43,560 square feet and if the ad mentions half acre or quarter acre how would consumer know the size. Member Gray indicated there should be no issue with stating a quarter acre or a half acre.

VII. Director Open Forum

Member Bohler stated that she is part of an HOA support group and it was suggested that Property Management require a different license. The Commissioner stated it would require legislation.

Chair Clifton stated she wanted to remind everyone of the purpose of the Advisory Board. Chair Clifton suggested that for the next meeting the Board prepare to discuss potential issues for recommendation. The Commissioner read A.R.S. 32-2104(E).

X. Call to the Public

None

XI. Election of 2016 Advisory Board Vice-Chair

Nominations; Member Gray previously nominated Member Halley, Chair Clifton previously nominated Member Gray. Vote taken and Member Gray was elected Vice-Chair.

XII. Next Real Estate Advisory Board Meeting : August 10, 2016

XIII. Adjournment

Chair Clifton called the meeting adjourned at 12noon.

*Respectfully submitted this 10th day of August, 2016
Real Estate Advisory Board*

Kimberly Clifton, Chair